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Fulbright & Jaworski L.L.P.

*Laurie Oles*



09/626,617 03 DAE # 23  
LUD-5364 JEL/NDH (10017134)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Applicant : DUMOUTIER, et al.

Serial No. : 09/626,617

Filed : July 27, 2000

For : ISOLATED NUCLEIC ACID MOLECULES WHICH ENCODE T CELL INDUCIBLE FACTORS, OR INTERLEUKIN-21, THE PROTEINS ENCODED, AND USES THEREOF

Art Unit : 1644

Examiner : A. Decloux

February 21, 2003

Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

02 FC:2006 5.00 CR -370.00 OP

05/05/2003 CKHLOK 00000015 500624 09626617

01 FC:2801 5.00 CH  
02 FC:2453 650.00 CH 370.00 OP

**PETITION TO REVIVE  
ABANDONED APPLICATION AS  
UNAVOIDABLY ABANDONED, OR  
IN THE ALTERNATIVE, AS  
UNINTENTIONALLY ABANDONED  
(37 CFR §1.137)**

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FEB 26 2003

**OFFICE OF PETITIONS**

Applicants hereby petition the Commissioner to revive the above referenced application as unavoidably abandoned or, in the alternative, as unintentionally abandoned.

Pursuant to 37 CFR §1.137(a)(1) and (b)(1), a response to the final rejection accompanies this petition. This is a request for continued prosecution under 37 CFR §1.53(d), together with a request for an extension of time, appropriate fees, and a preliminary amendment.

02/26/2003 CV0111 00000016 500624 09626617

03 FC:2452 55.00 CH

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Pursuant to 37 CFR §1.137(a)(2), the petition fee of \$55.00 accompanies this petition. If this petition is denied, it is asked that the difference between this fee, and the fee required by 37 CFR §1.17(m) for a petition to revive an unintentionally abandoned application be charged to Deposit Account 500624.

Pursuant to 37 CFR §1.17(a)(3), applicants now provide what they believe is an adequate showing that the entire delay in filing the required reply to the filing of this petition was unavoidable.

On December 26, 2001, the USPTO issued a final rejection in this application. A response was filed on March 25, 2002. Following receipt of an advisory action, dated April 17, 2002, applicants immediately filed a Notice of Appeal. The Notice was received on April 29, 2002. Thus, applicants' brief was due on June 29, 2002, and could be extended for an additional 4 months, until October 29, 2002.

Between April 29 and September 30, 2002, applicants diligently attempted to put the application in condition for allowance. There was a gap between July 22 and September 30; however, the reasons for this are set forth at the last page of applicants September 30 petition to have an amendment entered.

The petition was telefaxed to the USPTO on September 30, 2002, which was within the time frame for filing an appeal brief with extensions. Applicants called the USPTO several times, during the relevant time period, i.e., September 30 through October 29, and were advised that the petition was not decided until February 11, 2003, and applicants did not receive the decision until February 19.

It is not believed that it was unreasonable to conclude either that (i) the petition would be acted on within the period applicants had for acting, or (ii) that it would be granted. A delay of 5 months followed, where despite calls and written requests, applicants received no substantive information.

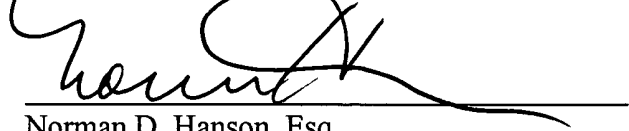
It is not seen how applicants could act appropriately given the absence of information and as such the abandonment must be seen as unavoidable.

Should the PTO determine that the showing provided herein is insufficient to support a finding of unavoidable abandonment, then applicants hereby certify, pursuant to 37 CFR §1.17(b)(3), that the entire delay in filing the required reply was unintentional, as it is believed the above discussion shows.

Favorable consideration of this petition is requested.

Respectfully submitted,

FULBRIGHT & JAWORSKI, L.L.P.

A handwritten signature in black ink, appearing to read "Norman D. Hanson", is written over a horizontal line.

Norman D. Hanson, Esq.  
Registration No. 30,946

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